

Committee: King George's Fields Charity Board	Date: 7 th January 2009	Classification: Unrestricted	Report No.	Agenda Item No.
Report of: Isabella Freeman Assistant Chief Executive (Legal Services)			Title: King George's Fields Charitable Trust – Mile End and Tredegar Square	
Originating Officer: Suki Binjal			Wards affected: All	

1. SUMMARY

1.1 This report provides the background in respect of King George's Fields Charitable Trust. The Council is a trustee for two Charities:-

- (i) King George's Field, Mile End; and
- (ii) King George's Field, Stepney (Tredegar Square, Bow)

1.2 The report also outlines the role of Councillors when acting as trustees of the Charities.

1.3 Members of the King George's Field Charity Board are asked to approve the recommendation as set out below.

2. RECOMMENDATIONS

2.1 To recommend that the Governing Document for the Charity Board is reviewed and the proposed changes to the document brought back to the Board for its approval.

2.2 To authorise the Assistant Chief Executive (Legal Services) to commence discussions with the Charities Commission with a view to agreeing an amended governing document which would address the concerns raised in paragraph 4 of this report.

3. BACKGROUND

King George's Fields Foundation

3.1 Part of the money subscribed for a national memorial to King George V was spent in erecting a statute at Westminster to the memory of the King; the remainder of the fund was handed to King George's Fields Foundation, which adopted a policy of distributing the money as grants towards the capital cost of playing fields under

schemes promoted by local bodies. The playing fields were to be as widespread as possible, so that villages as well as towns and cities should have an opportunity to participate.

3.2 In 1950, King George's Fields Foundation was able to announce that the first part of its work had been completed. Five hundred schemes had been approved, ranging from village fields of less than half an acre in the hands of local voluntary bodies to extensive fields, providing many games pitches, undertaken by local authorities as part of long-term planning developments, and King George's Fields are now distributed throughout England, Scotland, Wales, Northern Ireland and the Channel Islands.

3.3 The King George's Fields Foundation was established by a Trust Deed on 3 November 1936 and was administered by the National Playing Fields Association (at the time the Association was the sole Trustee of the Foundation) to maintain and support playing fields and parks.

King George's Fields, Stepney

3.4 On 5 November 1965 the Greater London Council (GLC) and the National Playing Fields Association (the Association) entered into a deed of covenant for the sum of £25,000, to preserve the land 'in perpetuity as a memorial to his late Majesty King George V under provisions of the Foundation'. This land was to be known as King George's Fields, Stepney. The 1965 Trust Deed and the site plan referred to as KGF1 are attached as Appendix 1 to this report.

3.5 In 1997 it became necessary to amend the 1965 Covenant Deed and the original 1936 Trust Deed to reflect the change in land use in the area. The original intent of the Foundation and the GLC was no longer be capable of being realised in full. It was agreed by the Council (as successors in title to the GLC) that the 1936 Trust Deed and the Deed of Covenant entered into in 1965 had to be modified. The Association and the Council agreed in 1997 to execute a Deed of Variation to give effect to this agreement.

3.6 On 29 January 1997 the Deed of Variation to the original 1965 Covenant Deed was sealed and registered with the Charities Commission under the Charities Act 1993. Attached as appendix 2 is the 1997 Deed of Variation together with the relevant site plans referred to as KGF1 and KGF2. Members will note that additional land was added and referred to as the replacement land.

3.7 In 2000, the Council agreed with the Charities Commission to extend the powers of the charity and put in place a Scheme of Governance to administer the charity. Also a variety of activities were being developed in Mile End Park and it was proposed to amend the objects and the name of the charity in order to give

effect to the substantial investment Mile End Park had attracted over the years.

3.8 Accordingly, on 28 February 2000 the Scheme of Governance was registered and the name of the charity was changed from King George's Field, Stepney to **King George's Field, Mile End.**

3.9 The Scheme is attached at Appendix 3 together with the relevant area plan. London Borough of Tower Hamlets is the trustee of the Charity and the powers of the trustees are outlined under part 5 of the Scheme.

King George's Field – Stepney (Tredegar Square, Bow)

3.10 The Council is also a trustee of King George's Field, Stepney (Tredegar Square, Bow).

3.11 Tredegar Square, was in the Metropolitan Borough of Stepney, the Garden Square is governed by a principal agreement dated 7 April 1930 and further supplemental agreement dated 20 August 1954. The Honorable Euan Frederic Morgan and his successors dedicated the land known as Tredegar Square Garden to the Council for it to be maintained as a public park or as a recreation ground. The Council now maintains the garden under the powers conferred to it by the Open Spaces Act 1906, and by the supplemental agreement dated 20 August 1954.

3.12 Under the 1954 Agreement the Council agreed to hold the Square Garden as part of the National Memorial to His Majesty King George V. The Charity is registered and its objects are that a recreation and playing field to be preserved in perpetuity as a memorial to King George V under provisions of King George's Fields Foundation.

3.13 Attached at Appendix 4 is the 1954 agreement and relevant site plan of Tredegar Square Garden, Bow.

4. GOVERNANCE ARRANGEMENTS

4.1 The sole trustee of the charity is the London Borough of Tower Hamlets, which has delegated its responsibilities to a Committee known as the King George's Field Charity Board. The arrangements have been made in accordance with the Scheme of Governance (dated 28 February 2000) for King George's Field, Mile End.

4.2 Charities Commission guidance is that the Governing Document should ensure that it serves the charity well for the foreseeable future, and allows for change in circumstances. However, it is

likely that, with the passage of time, new needs and unforeseen eventualities will develop and that the Governing Document may need updating to reflect these changes.

4.3 In these circumstances it is the duty of the trustees to seek to change the Governing Document in order to ensure the charity's continuing effectiveness.

4.4 It is proposed that the Governing Document is modernised and brought up to date. There are a number of reasons why this proposed.

(i) It is questionable as to whether the Board should form part of the Council's Constitution. Initially, when the Scheme was set up in 2000 the Council operated under the Local Government Act 1972 Committee structure however, under the current Executive arrangements, the administration of the Charity is neither an executive or a non-executive function of the Council but nevertheless it is the Council's responsibility as the trustee to ensure the Charity is governed appropriately.

(ii) Tredegar Square does not have in place a Scheme of Governance. The Council currently operates this Charity in the same manner as it does for Mile End. Discussions have taken place with the Charity Commission as to whether the objects of this Charity are being administered in accordance with the provisions of King George's Field's Foundation.

(iii) It would be effective to amalgamate both Mile End and Tredegar Square charities.

4.5 Accordingly, it is proposed that Legal Services commence discussions with the Charities Commission with a view to bringing back to the Board proposed changes to the Governing Document which would allow some of the issues mentioned above to be addressed.

5. ROLE OF COUNCILLORS APPOINTED AS TRUSTEES OF THE KING GEORGE'S FIELDS CHARITY

5.1 Councillors appointed to the King George's Fields, Charity Board, are acting on behalf of the Council as trustee's and not as Councillors. The affairs of the charity are directed by the Board of Trustees. The powers of the Board as trustees of the charity are different from those of a normal committee because charity law applies. In particular the Board must act in the interests of the charity and not the Council. For example:-

(i) It is a duty of the board to preserve the charity so that it cannot sell or dispose of the land except in wholly

exceptional circumstances with the express consent of the Charity Commission.

- (ii) Any funds given to the board have the status of grant and be once given cannot be used for non charitable purposes. It follows that the Board does not have a budget allocation as would generally be normal for a committee, but is dependent on Council grants or other funding sources.

5.2 There is a duty under the Charities Act 1993 to produce an annual report and accounts to the Charity Commission. Members should note from end of year accounts that there is an explanatory note as to the structure governance and management of the charity.

5.3 The above duties apply in conjunction with the duty of administering the trusts objects. Attached at appendix 5 is a guidance note for Members as to responsibilities of trustees. This is for information purposes only.

5.4 In addition to their role as trustees Members need to be aware that the Council is in control of the land which is an open space (which is defined below) and is empowered under section 10 of the Open Spaces Act 1906 (the 1906 Act) with the following discretionary power:-

- (i) To hold and administer the open space in trust to allow, and with a view to, the enjoyment by the public as an open space within the meaning of the 1906 Act and under proper control and regulation and for no other purpose; and to maintain and keep the open space in a good and decent state.
- (ii) In addition, the Council may enclose it or keep it enclosed with proper railings and gates, and may drain, level, lay out, turf, plant ornaments, light, provide with seats and otherwise improve it. This includes such works and things and employment of such officers as it be requisite for the mentioned purposes or any of them that the Council thinks fit.

5.5 Open space is defined under section 20 of the 1906 act as 'any land, whether enclosed, or not, on which there are no buildings or of which not more than one twentieth of the park area is covered by buildings, and the whole or the remainder of which is laid out as a garden or is used for the purposes of recreation or lies waste and unoccupied.

6. COMMENTS OF THE CHIEF FINANCIAL OFFICER

6.1 There are no immediate financial implications arising from this report.

7. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

7.1 Legal comments have been incorporated within the body of this report.

8. ONE TOWER HAMLETS CONSIDERATIONS

8.1 One Tower Hamlets considerations have been taken into account in the Directorates service improvement proposals.

9. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

9.1 There are no direct sustainability implications in this report.

10. RISK MANAGEMENT IMPLICATIONS

10.1 Managing financial risk is of critical importance to the Directorate and maintaining financial health is essential to sustaining and improving service performance, Specific risks are project managed, recorded and progress is monitored through the directorate risk register process.

11. APPENDICES

- (1) 1965 Trust Deed and site plan referred to as KGF1.
- (2) 1997 Deed of Variation and site plans referred to as KGF1 and KGF2.
- (3) Scheme of Governance dated 28 February 2000 for King George's Field, Mile End and relevant site plan.
- (4) Tredegar Square agreement dated 1954 and relevant site plan. Attached the relevant site plan.
- (5) Guidance document re duties and responsibilities of Trustees of a Charitable Board.